

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/811

- Applicant** : Mr. LAM Kin Hop represented by T.H. & Associates Limited
- Site** : Lot 689 S.C ss.4 in D.D. 77, Ha Shan Kai Wat, Ta Kwu Ling, New Territories
- Site Area** : 113.1m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Planning (OZP)
No. S/NE-TKL/14
- Zonings** : (i) “Agriculture” (“AGR”) (about 75% of the Site)
(ii) “Village Type Development” (“V”) (about 25% of the Site)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1 The Proposal

1.1 The applicant, who claims himself to be an indigenous villager of Shan Kai Wat¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ha Shan Kai Wat falling within an area mainly zoned “AGR” (about 75%) and partly zoned “V” (about 25%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ is a Column 1 use always permitted within the “V” zone, while ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered with grass.

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

¹ As advised by the District Lands Officer/North of Lands Department (DLO/N, LandsD), the Small House grant application for the Site has been approved but the issuance of offer letter is pending subject to execution of an Undertaking by the applicant.

- 1.3 The applicant indicates that the uncovered area of the Site will be used as garden area. The layout of the proposed Small House (including septic tank) is shown in **Drawing A-1**.
- 1.4 The Site is the subject of two previous applications (No. A/NE-TKL/356 and 623) submitted for the same use by the same applicant² as the current application, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.4.2011 and 20.9.2019 respectively. Details of the previous applications are set out in paragraph 5.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 6.8.2025 **(Appendix I)**
 - (b) Further Information (FI) received on 12.9.2025* **(Appendix Ia)**
- * accepted and exempted from publication and recounting requirements*

2 Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**, as summarised below:

- (a) the applicant is an indigenous villager of Shan Kai Wat. It is impossible for the applicant to purchase land that allows the Site to fall completely within the “V” zone;
- (b) the Site falls completely within the village ‘environs’ (‘VE’) of Ha Shan Kai Wat and part of the Site falls within the “V” zone;
- (c) the application is the subject of a previously approved application No. A/NE-TKL/623. The applicant forgot to apply for extension of time for commencement under the previous application due to busy work;
- (d) there are similar applications for Small House development within the “AGR” zone in the vicinity of the Site approved by the Committee; and
- (e) the proposed Small House development is compatible with the surrounding areas and will not cause any adverse traffic impact on the surrounding areas. No tree felling at the Site will be required.

3 Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4 Assessment Criteria

The set of the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim

² Application No. A/NE-TKL/356 for proposed two Houses (NTEHs – Small Houses) covering a larger site area was submitted by two applicants, one of them (for the land pertaining to the Site) was the applicant of the current application.

Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5 Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-TKL/356 and 623) for proposed House (NTEH – Small House). Application No. A/NE-TKL/356, which covered a larger site area for two proposed Small Houses submitted by the same applicant as the current application and another applicant, was approved with conditions by the Committee on 15.4.2011 (i.e. before the Board formally adopted a more cautious approach in considering Small House application since August 2015³) mainly on the considerations that the application generally met the Interim Criteria in that the entire footprint of the proposed Small House fell within the ‘VE’ of Ha Shan Kai Wat Village and there was insufficient land within the “V” zone to meet the Small House demand at the time of consideration; the proposed development was not incompatible with the adjacent rural environment; and the proposed development was not expected to have significant adverse impacts on the surrounding area. The validity of the planning permission was extended once, and lapsed on 16.4.2019.
- 5.2 Application No. A/NE-TKL/623 submitted by the same applicant as the current application was approved with conditions by the Committee on 20.9.2019 after the formal adoption of a more cautious approach by the Board mainly on sympathetic considerations that the Site was the subject of a previously approved application for the same use submitted by the same applicant. The planning permission lapsed on 21.9.2023.
- 5.3 Compared with the last approved application, there is no change in the development parameters and footprint of the proposed Small House except for the location of septic tank.
- 5.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

6 Similar Applications

- 6.1 There were 11 similar applications falling within (in part or in whole) the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Among them, applications No. A/NE-TKL/373 and 374 were approved with conditions by the Committee in 2012 before the formal adoption of a more cautious approach by the Board mainly on the considerations similar to those detailed in paragraph 5.1 above.
- 6.2 The remaining nine applications (No. A/NE-TKL/511, 512, 570, 571, 572, 582, 583, 609 and 798) involving six sites, which were not the subject of any previously approved applications for the same use, were rejected by the Committee between July 2015 and July 2025 mainly on grounds that the proposed development was not in line with the planning intention of the “AGR” zone and there was no strong planning justification for the departure from the planning intention; land was still available within the “V” zone of Ha Shan Kai Wat; and it was considered more appropriate to concentrate Small House development close to the existing village cluster within the “V” zone.

³ Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

6.3 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

7 The Site and Its Surrounding Areas (Plans A-2a to A-4b)

7.1 The Site is:

- (a) vacant and covered with grass;
- (b) located to the east of the village cluster of Ha Shan Kai Wat in “V” zone; and
- (c) not served by any vehicular access.

7.2 The surrounding areas are rural in character comprising mainly fallow agricultural land and village houses.

8 Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9 Comments from Relevant Government Departments

9.1 The application has been assessed against the assessment criteria at **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the proposed Small House - The Site	23% 25%	77% 75%	The Site and footprint of the proposed Small House fall within the “AGR” and “V” zones.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	DLO/N, LandsD advises that the Site and the footprint of the proposed Small House fall within the ‘VE’ of Ha Shan Kai Wat.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications)		✓	<u>Land Required</u> - Land required for meeting Small House demand in Ha Shan Kai Wat: about 6.83 ha (equivalent to

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House applications?	✓		273 Small House sites). The outstanding Small House applications of Ha Shan Kai Wat are 10 ⁴ while the 10-year Small House demand forecast for the same village is 263. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Ha Shan Kai Wat: about 1.71 ha (equivalent to 68 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House development is not entirely incompatible with the surrounding areas which comprise mainly fallow agricultural land and village houses.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Environmental and sewerage impacts?		✓	The Director of Environmental Protection (DEP) advises that the application alone is unlikely to cause major pollution.
8.	Encroachment onto planned road networks and public works boundaries?		✓	

⁴ Among the ten outstanding Small House applications, four fall within the “V” zone. For the other six which straddle or are outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
10.	Traffic impact?	✓		The Commissioner for Transport (C for T) has no objection to the application. She advises that the application only involves the construction of one Small House, and considers that the application can be tolerated on traffic grounds. Although additional traffic generated by the proposed development is not significant, the permission of development outside the "V" zone will however set an undesirable precedent case for similar application. The resulting cumulative adverse traffic impact has to be reviewed on a case-by-case basis in the future.
11.	Drainage impact?		✓	The Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscaping impact?		✓	The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L, PlanD) has no adverse comment on the application from the landscape planning perspective and advises that significant adverse impact on existing resources arising from the proposed development is not anticipated.
13.	Local objections conveyed by District Officer?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and Recommended Advisory Clauses are provided at **Appendices V** and **VI** respectively.

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) CE/MN, DSD;

- (f) DAFC;
- (g) D of FS; and
- (h) District Officer (North), Home Affairs Department (DO(N), HAD).

9.3 The following government departments have no objection to or no adverse comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10 Public Comments Received During Statutory Publication Period

On 19.8.2025, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VII**). One comment from an individual expresses that the application should be considered as a fresh application in view of recent decisions of the Committee. The remaining comment from a member of the North District Council indicates no comment on the application.

11 Planning Considerations and Assessments

- 11.1 The application is for proposed Small House development at the Site mainly zoned “AGR” and partly zoned “V” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from the agricultural perspective as the Site can be used for agricultural activities.
- 11.2 The Site, located to the east of the village cluster of Ha Shan Kai Wat, is vacant and covered with grass. The proposed Small House is considered not entirely incompatible with the surrounding areas which are rural in character comprising mainly fallow agricultural land and village houses. CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective and advises that significant adverse impact on existing resources arising from the proposed development is not anticipated. Other relevant government departments consulted, including C for T, DEP, CE/MN, DSD, CE/C, WSD and D of FS, have no objection to or no adverse comment on the application.
- 11.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Ha Shan Kai Wat. According to DLO/N, LandsD, the number of outstanding Small House applications for Ha Shan Kai Wat is 10 while the 10-year Small House demand forecast is 263. Based on PlanD’s latest estimate, about 1.71 ha (equivalent to 68 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While the amount of land available within the “V” zone of Ha Shan Kai Wat is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House

development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Notwithstanding the above, the Site is the subject of two previously approved applications submitted by the same applicant for the same use as the current application as detailed in paragraphs 5.1 and 5.2 above. The last planning approval under application No. A/NE-TKL/623 lapsed on 21.9.2023. As advised by DLO/N, LandsD, the Small House grant application for the Site has been approved but the issuance of offer letter is pending subject to execution of an Undertaking by the applicant. In view of the above, sympathetic consideration could be given to the application.

- 11.4 There were 11 similar applications involving the same “AGR” zone in the vicinity of the Site. Two of them were approved before the formal adoption of a more cautious approach by the Board while the other nine were rejected by the Committee between July 2015 and July 2025 mainly on the grounds as detailed in paragraph 6.2 above. The planning circumstances of the current application are different from those of the rejected similar applications which were not the subject of any previously approved applications for the same use.
- 11.5 Regarding the public comments as detailed in paragraph 10 above, the government departments’ comments and planning assessments above are relevant.

12 Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as detailed in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 19.9.2029, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The Recommended Advisory Clauses are attached at **Appendix VI**.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members reference:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
 - (b) land is still available within the “V” zone of Ha Shan Kai Wat which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.

13 Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14 Attachments

Appendix I	Application Form with attachment received on 6.8.2025
Appendix Ia	FI received on 12.9.2025
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Proposed Small House Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone of Ha Shan Kai Wat
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2025**